

1 EDMUND G. BROWN JR.
 2 Attorney General of the State of California
 2 TOM BLAKE
 3 Deputy Attorney General
 3 State Bar No. 51885
 4 455 Golden Gate Avenue, Suite 11000
 4 San Francisco, CA 94102-3664
 5 Telephone: (415) 703-5506
 5 Fax: (415) 703-5480
 6 Email: tom.blake@doj.ca.gov

6 Attorneys for California Supreme Court

7 IN THE UNITED STATES DISTRICT COURT
 8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 9 SAN FRANCISCO DIVISION

10
 11 JOSHUA HILD,

12 Plaintiff,

13 v.

14 CALIFORNIA SUPREME COURT;
 14 CALIFORNIA COURT OF APPEAL,
 15 SECOND APPELLATE DISTRICT,

15 Defendants.

16 C 075107 TE H

JOINT ADMINISTRATIVE
 MOTION TO CONTINUE
 HEARING ON MOTION TO
 DISMISS AND CASE
 MANAGEMENT CONFERENCE

Date: Jan. 14, 2008
 Time: 10:00 a.m.

17 NATURE OF ACTION; PROCEDURAL STATUS

18 An Initial Case Management Conference and a Motion to Dismiss are currently on the
 19 Court's calendar for January 14, 2008 at 10:00 a.m. By this joint administrative motion, all parties
 20 respectfully request that the hearing on the Motion to Dismiss be continued to February 4, 2008 or
 21 such later date as may be convenient to the Court, and that the setting of the Initial Case Management
 22 Conference be deferred until the Court has ruled on the Motion to Dismiss.

23 Moving defendant is the Supreme Court of California. The plaintiff alleges that the state
 24 Supreme Court's rules for citing precedent in the California's state courts are unconstitutional. On
 25 October 24, 2007, defendants California Supreme Court and California Court of Appeal moved
 26 under Rule 12(b), Federal Rules of Civil Procedure, to dismiss the plaintiff's original complaint.
 27 The hearing on the Rule 12(b) motion was noticed for December 3, 2007. That hearing date was
 28 continued on the Court's own motion to December 17, 2007. On November 20, 2007, while the

1 defendants' motion to dismiss was pending, the plaintiff filed a First Amended Complaint.^{1/} The
 2 remaining defendant, the state Supreme Court, filed a motion to dismiss the new complaint. That
 3 motion is presently on the Court's calendar for the morning of January 14, 2008. Moving defendant
 4 believes that a ruling on motion to dismiss may make a Case Management Conference moot.

5 Plaintiff's counsel has his office in Southern California. The Supreme Court's lead counsel
 6 in this matter, Deputy Attorney General Tom Blake, now expects to be involved in a jury trial before
 7 the Honorable Samuel Conti on January 14, 2008.

8 **By this motion, both parties respectfully request that the Motion to Dismiss be heard**
 9 **on February 4, 2008 or such later day as may be available on the Court's calendar, and that**
 10 **the Motion to Dismiss be decided before a Case Management Conference is held. No new**
 11 **briefing will be submitted to the Court.**

12

13 GROUNDS FOR REQUEST

14 As noted above, the Motion to Dismiss and the initial Case Management Conference are now
 15 both set for January 14, 2008, but it appears wasteful of judicial resources to hold the Case
 16 Management Conference before the Rule 12(b) motion is heard. If the motion to dismiss is granted,
 17 as defendant California Supreme Court believes proper, the conference would be moot.

18 The Court has the authority to modify the case management schedule. See Civil L.R. 16-2(d).

19 CONCLUSION

20 For the reasons set out above, moving defendants respectfully ask that this Court:

21 * Set a new date and time for hearing on the heretofore-filed Motion to Dismiss that is
 22 convenient to the Court on or after February 4, 2008; and

23

24

25

26

27

28 1. The California Court of Appeal was omitted from the superceding First Amended
 Complaint and is no longer a party.

1 * Order the Case Management Conference off calendar pending the disposition of the Motion
2 to Dismiss.

3 Dated: January 7, 2008

4 Respectfully submitted,

5 EDMUND G. BROWN JR.
6 Attorney General of the State of California
7 /s/ Tom Blake

8 TOM BLAKE
9 Deputy Attorney General
10 Attorneys for Defendant California Supreme Court

11 BISNAR | CHASE

12 /s/ Brian D. Chase

13 BRIAN D. CHASE
14 Attorneys for Plaintiff Joshua Hild

15 ~~[Proposed]~~ ORDER

16 Pursuant to stipulation, it is so ordered. Hearing on the defendant's Motion to Dismiss is
17 continued to February 4, 2008 at 10:00 a.m.

